

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

MEMORANDUM AND ORDER

Case No. 16-CV-04948 (FB) (SMG)

-against-

JAMAICA WELLNESS MEDICAL,
P.C., BRIJ MITTAL, M.D., MARC
LAMPA, D.C., UNITED WELLNESS
CHIROPRACTIC, P.C., GREGORY
MILLER a/k/a GREGORI
MICKILWSKI, DAILY MEDICAL
EQUIPMENT DISTRIBUTION
CENTER, INC., LIDA'S MEDICAL
SUPPLY, INC., and DAVID SAFIR,

Defendants.

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BLOCK, Senior District Judge:

On May 31, 2019, Magistrate Judge Gold issued a Report and Recommendation ("R&R") recommending that Plaintiff's Motion for Default Judgment be granted in part and denied in part. Specifically, the R&R recommended that "[P]laintiff be awarded: (1) \$93,590.90, plus prejudgment interest calculated as described in Table 1 *supra*, jointly and severally against Daily Medical and Miller, and (2) \$101,922.73, plus prejudgment interest calculated as described in Table 2 *supra*, jointly and severally against Lida's and Miller." R&R at 19. The R&R

also recommended that the “Court enter a declaratory judgment providing that plaintiff is not obligated to pay any claims for reimbursement submitted by the defaulting defendants that are now pending or were pending at the time the complaint in this action was filed.” *Id.*

The R&R advised that objections were due within fourteen days from service of the R&R. R&R at 19. The R&R was served on the defendants on June 6, 2019, making objections due by June 20, 2019. To date, no objections have been filed.

When no party has objected to a Magistrate Judge’s report and recommendation, the Court may adopt it without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”). The Court may excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Accordingly, the Court adopts the R&R in its entirety, and the Clerk shall enter judgment in accordance with the R&R.

In light of the recommendation that “prejudgment interest be calculated from

the “first day of the year following the year in which payments were made to the defaulting defendants,” R&R at 17, prejudgment interest on the \$93,590.90 owed by Daily Medical and Miller shall be calculated as follows:

- The judgment shall be increased by \$0.21¹ per day multiplied by the number of days between January 1, 2012, and the day on which judgment is entered.
- The judgment shall also be increased by \$1.91² per day multiplied by the number of days between January 1, 2013, and the day on which judgment is entered.
- The judgment shall also be increased by \$2.47³ per day multiplied by the number of days between January 1, 2014, and the day on which judgment is entered.
- The judgment shall also be increased by \$14.08⁴ per day multiplied by the number of days between January 1, 2015, and the day on which judgment is entered.
- The judgment shall also be increased by \$2.27⁵ per day multiplied by the number of days between January 1, 2016, and the day on which judgment is entered.
- The judgment shall also be increased by \$2.14⁶ per day multiplied by the number of days between January 1, 2017, and the day on which judgment is entered.

Similarly, prejudgment interest on the \$101,922.73 owed by Lida’s and Miller shall be calculated as follows:

- The judgment shall be increased by \$12.35⁷ per day multiplied by the number of days between January 1, 2016, and the day on which judgment is entered.

¹ 9% annual interest ÷ 365 days × \$844.13 in principal.

² 9% annual interest ÷ 365 days × \$7,760.28 in principal.

³ 9% annual interest ÷ 365 days × \$10,003.91 in principal.

⁴ 9% annual interest ÷ 365 days × \$57,089.92 in principal.

⁵ 9% annual interest ÷ 365 days × \$9,213.05 in principal.

⁶ 9% annual interest ÷ 365 days × \$8,679.61 in principal.

⁷ 9% annual interest ÷ 365 days × \$50,100.92 in principal.

- The judgment shall also be increased by \$11.22⁸ per day multiplied by the number of days between January 1, 2017, and the day on which judgment is entered.
- The judgment shall also be increased by \$1.56⁹ per day multiplied by the number of days between January 1, 2018, and the day on which judgment is entered.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
July 1, 2019

⁸ 9% annual interest ÷ 365 days × \$45,485.29 in principal.

⁹ 9% annual interest ÷ 365 days × \$6,336.52 in principal.